

**THE HONORABLE FRANCIS MAGILL
FOURTH JUDICIAL DISTRICT
PRACTICE POINTERS & PREFERENCES**

I. CONTACT WITH CHAMBERS

- Counsel may contact Judge Magill's chambers with questions related to procedural matters not covered by the rules or any applicable orders. Counsel may also email chambers at 4thJudgeMagillStaff@courts.state.mn.us.
- Counsel should have the court file number ready when they call chambers or include it in the email.
- Judge Magill's chambers will not answer substantive legal questions.

II. SCHEDULING ORDER

- Guidance on many procedural points is provided in Judge Magill's scheduling orders and trial orders. Attorneys are encouraged to consult the applicable scheduling order or trial order before calling chambers with questions.
- Parties should meet and confer regarding any amendments to the Scheduling Order. If the parties cannot agree, the party requesting the amendment must call chambers and ask for permission to submit a letter brief explaining the good faith basis for the party's request. Judge Magill typically allows the party opposing the request one week to respond.
- If the parties are aware of conflicts during a trial block, they must notify chambers immediately. If the parties want a date certain trial, they should make the request early.

III. INFORMAL TELEPHONE CONFERENCES

- Judge Magill will hold informal telephone conferences under certain circumstances. Counsel must call chambers to request an informal telephone conference. Counsel should be prepared to explain the circumstances that warrant an informal telephone conference.

IV. MOTION PRACTICE

- Judge Magill expects parties to comply with the Rules of Civil Procedure and the Rules of General Practice with respect to a party's meet-and-confer obligations.
- Judge Magill typically sets aside 30 minutes for hearings on non-dispositive motions. Judge Magill typically sets aside 30 minutes – 1 hour for hearings on dispositive motions. If a party needs additional time, call chambers and ask for additional time.

- Hearings are typically scheduled at 8:30 a.m. and 1:00 p.m.
- If parties are filing cross-motions for summary judgment, Judge Magill prefers the parties confer regarding scheduling before contacting chambers to schedule the hearing.
- Parties should send two hard copies of their submissions to chambers. Judge Magill does not have a preference on how the materials are bound (e.g., three ring binders, three-hole punch, etc.)
- Judge Magill does not have a preference regarding whether counsel sits at counsel table or uses the podium during oral argument.
- Judge Magill allows the use of demonstratives during hearings and encourages their use for complex matters. Parties must ask the Court's permission before using demonstratives and they must share it with opposing counsel in advance of the hearing.

Practice Pointers

- On motions to compel, counsel should focus on what they actually want, i.e., the information or documents they are seeking, rather than arguing the merits of the case.
- On dispositive motions, counsel should not repeat what is in the briefs – Judge Magill will have read them before the hearing – counsel should instead focus on the main points and be prepared to address the tough questions and discuss the authorities cited in support of their arguments.

V. PRETRIAL PROCEDURES

- A pretrial conference will typically be set approximately one month before the trial block. The parties should come prepared to discuss how long they expect trial to last and to provide an update on the parties' mediation efforts. The parties should also be ready to address any issues they foresee coming up at trial. Pretrial conferences may last anywhere between 5 and 30 minutes depending on the issues that need to be addressed.
- For a jury trial, Judge Magill is willing to discuss settlement with the parties at the pretrial conference if they think it would be helpful.
- Judge Magill typically hears motions *in limine* the first morning of trial. If there are voluminous motions *in limine* and the parties would like a separate hearing date, they should be prepared to ask for one at the pretrial conference.
- If the parties anticipate using deposition testimony during the trial and have objections to portions of that testimony, they should raise this issue with Judge Magill during the pretrial conference so that he has enough time to consider the issues before trial.

Pretrial Filings

- The more factual stipulations the better.
- Parties should send two hard copies of the exhibits to chambers – one set for the Judge and one set for his clerk. Counsels should also prepare hard copies of the exhibits for the witnesses.
- The trial memoranda should provide an overview of the case, including an introduction of the witnesses and a description of the issues to be decided. The trial memorandum should also include the elements of what the party with the burden of proof must show.
- If there are no applicable CIV JIGs, the parties must submit authority to support their argument regarding how the jury instructions should be drafted.

Practice Pointers

- If there are certain issues that the parties anticipate will arise during trial or will be subject to an ongoing dispute at trial, they need to raise it with Judge Magill at the pretrial conference. There should be no unexpected surprises at trial.

VI. TRIAL PREFERENCES

- The Court expects a high level of decorum in the courtroom during trial. This includes counsel asking to approach a witness, staying within the well during opening and closing, and similar expectations that counsel should be familiar with.
- Counsel shall not make speaking objections; counsel should only state the legal basis for the objection. Counsel may request a sidebar, if needed, and the Court will put a summary of the sidebar on the record at the next break after the jury has been excused.
- Trial schedule: 9 a.m. to 12 p.m. with a 15 minute break and 1:30 p.m. to 4:30 p.m. with a 15 minute break.

Jury Trial

- Voir Dire: Judge Magill will ask preliminary questions. The parties are allowed to submit questions for Judge Magill to consider. The timing for the submission of questions should be discussed at the pretrial conference. Judge Magill prefers parties to waive the presence of a court reporter during voir dire.

Practice Pointers

- Counsel should be prepared to start on time and to raise issues before trial so that the jury does not have to wait outside the courtroom for prolonged periods of time.

Court Trial

- Judge Magill typically does not require opening statements in court trials. The parties must request permission to have opening statements.
- Judge Magill prefers written closing arguments with proposed findings of fact and conclusions of law.

VII. MISC.

- Proposed Orders should be sent in Word to Judge Magill's staff (see email address in Section I above).
- If parties have pervasive discovery issues, Judge Magill will appoint a special master to oversee the disputes and order the parties to split the cost for the special master.